

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
FRANCES HINES,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION
	)	NO: _____
TOYOTA MOTOR SALES, U.S.A,	)	
INC.,	)	
	)	
Defendant	)	
_____	)	

NOTICE OF REMOVAL

TO: THE CHIEF JUDGE AND JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

The defendant, Toyota Motor Sales, U.S.A., Inc. ("TMS"), hereby gives notice of its removal of the above-captioned action from the Superior Court, Suffolk County, Commonwealth of Massachusetts, to the United States District Court for the District of Massachusetts pursuant to 28 U.S.C. §1446. In support of its removal, TMS states:

1. On or about February 7, 2011, the plaintiff, Frances Hines, filed a Complaint in the Superior Court for Suffolk County, Massachusetts. The original Complaint named "Toyota Motor USA" as the defendant. On February 9, 2011, the plaintiff amended her original Complaint to change the name of the defendant to Toyota Motor Sales, U.S.A., Inc.
2. A summons and copies of the original complaint, the amendment to it, and a civil action cover sheet were served on TMS through its authorized agent for service of process in Massachusetts, CT Corporation, on February 9, 2011. Copies of the summons, original complaint, amendment to it, and civil action cover sheet (the last three documents date-stamped

by the clerk of the Suffolk County Superior Court), being all process, pleadings, and orders served on TMS, are attached under Tab A.

3. According to the complaint, this is a products liability action in which the plaintiff seeks recovery from TMS for injuries she allegedly sustained in a motor vehicle accident that occurred in the Dorchester section of Boston on June 4, 2005. The plaintiff alleges in essence that she drove a 2005 Toyota Camry through a carwash; that upon exiting the carwash the Camry unexpectedly accelerated to a high rate of speed notwithstanding the alleged fact that she had her foot on the brake pedal rather than on the accelerator pedal; that the Camry's brakes had no effect notwithstanding the alleged fact that she had her foot on the brake pedal rather than on the accelerator pedal; and that a collision ensued in which she was seriously hurt. The plaintiff alleges that the events she described occurred because of a defect in the Camry.

4. The plaintiff alleges that as a result of the accident she sustained neck and leg fractures and a torn rotator cuff, that she was out of work from June 4, 2005, to December 8, 2005, and that she continues to experience an unspecified level of disability. The plaintiff states in her civil action cover sheet that she has incurred \$235,462.48 in medical expenses to date as a result of the accident and that she anticipates an additional \$30,000 in future medical expense for knee replacement.

5. The plaintiff avers that she resides in the Roxbury section of Boston, Massachusetts.

6. TMS is a California corporation with its principal place of business in California.

7. Federal subject matter jurisdiction of the action is conferred by 28 U.S.C. §1332 because there is complete diversity of citizenship between the plaintiff and TMS and the amount in controversy, exclusive of interest and costs, exceeds \$75,000.

8. The action is removable pursuant to 28 U.S.C. §1441(b) because TMS is not a citizen of Massachusetts.

9. This Notice of Removal has been filed less than 30 days after TMS's receipt, through service or otherwise, of a copy of the original or amended complaint and less than 30 days after service of the summons on TMS.

10. A stamped copy of this Notice of Removal will be promptly filed with the Clerk of the Superior Court for Suffolk County, Massachusetts, and served on the plaintiff pursuant to 28 U.S.C. §1446(d).

WHEREFORE, TMS requests removal of the above-captioned action from the Superior Court, Suffolk County, Commonwealth of Massachusetts, to the United States District Court for the District of Massachusetts.

DATED: February 25, 2011

TOYOTA MOTOR SALES, U.S.A., INC.,

By its attorneys,

CAMPBELL CAMPBELL EDWARDS  
& CONROY, P.C.

/s/ John A.K. Grunert

James M. Campbell (BBO: 541882)

John A.K. Grunert (BBO: 213820)

One Constitution Center

Boston, MA 02129

Telephone: (617) 241-2300

Fax: (617) 241-5115

[jgrunert@campbell-trial-lawyers.com](mailto:jgrunert@campbell-trial-lawyers.com)

CERTIFICATE OF SERVICE

I, John A.K. Grunert, hereby certify that on February 25, 2011, I served the within Notice by causing a copy to be mailed, by first class mail, postage prepaid, to Ms. Frances Hines, 23 Westminster Avenue, Roxbury, MA 02119.

/s/ John A.K. Grunert

TAB A

## Commonwealth of Massachusetts

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTIONNo. 11 11476 FFrances Hines, Plaintiff(s)

Toyota Motor Sales USA INC.  
C/O CT Corporation, Defendant(s)

## SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon Frances Hines

plaintiff's attorney, whose address is 23 Westminister Avenue, Roxbury, Ma, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse, Esquire, at Boston, the 9 day of February, in the year of our Lord two thousand 2011.

2/9/2011 Michael Joseph Donovan  
 Clerk/Magistrate

## NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

3. TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED

(1) TORT — (2) MOTOR VEHICLE TORT — (3) CONTRACT — (4) EQUITABLE RELIEF — (5) OTHER

NOTICE TO DEFENDANT: — You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

**PROOF OF SERVICE OF PROCESS**

I hereby certify and return that on \_\_\_\_\_, 200\_\_\_\_, I served a copy of the within summons, together with a copy of the complaint in this action, upon the within-named defendant, in the following manner (See Mass. R. Civ. P. 4 (d) (1-5):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Dated: \_\_\_\_\_, 200\_\_\_\_\_

**N.B. TO PROCESS SERVER: -**

**PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN  
THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.**

\_\_\_\_\_, 200 .

1768011  
**Commonwealth of Massachusetts**

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION

No. \_\_\_\_\_

\_\_\_\_\_, Plff(s).

v.

\_\_\_\_\_, Deft(s).

SUMMONS

(Mass. R. Civ. P. 4)

(AFFIX FILING STAMP HERE)

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

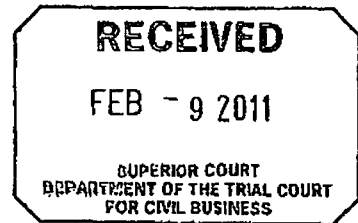
SUPERIOR COURT  
CIVIL ACTION  
NO.

Frances Hines  
PLAINTIFF(S) (PRINT NAME CLEARLY)

110476F

Toyota Motor Sales USA Inc.  
c/o CT Corporation  
DEFENDANT(S) (PRINT NAME CLEARLY)

Amended  
COMPLAINT



PARTIES

1. Plaintiff(s) reside(s) at 23 West Minster Avenue Roxbury, 02119  
Street City of Town  
in the County of Suffolk

2. Defendant(s) reside(s) at 155 Federal Street, Suite 700 Boston, 02111  
Street City of Town  
in the County of Suffolk

FACTS

3. The original name is not correct it is  
Toyota Motor USA. c/o CT Corporation.  
The correct name is Toyota Motor Sales  
USA Inc. c/o CT Corporation



n/a

4. Answer this question only if you are seeking a restraining order against the defendant(s):

Have there been any other Court proceedings, criminal or civil, involving you or your family members and the defendant or defendant's family members?

n/a

Yes \_\_\_\_\_

No \_\_\_\_\_

If Yes, describe the Court proceeding(s) and its/their status. \_\_\_\_\_

WHEREFORE, plaintiff demands that:

n/a

SIGNED UNDER THE PENALTIES OF PERJURY.

DATE:

February 9, 2011

Frances Hines

Signature of Plaintiff(s)

Street Address

23 West Minister Avenue

City/Town

Roxbury

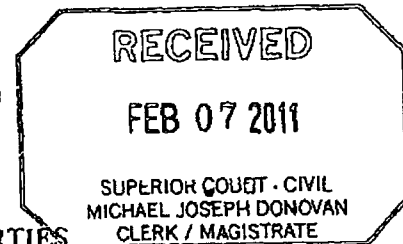
Telephone 617 427-9988

COMMONWEALTH OF MASSACHUSETTS  
SUFFOLK, ss. SUPERIOR COURT  
CIVIL ACTION  
NO.

Frances Hines  
PLAINTIFF(S) (PRINT NAME CLEARLY)

11 0476 F

vs  
Toyota Motor USA  
DEFENDANT(S) (PRINT NAME CLEARLY)  
CIO CT Corporation



PARTIES

1. Plaintiff(s) reside(s) at 23 West Minster Avenue Roxbury  
Street City or Town 02119  
in the County of Suffolk

2. Defendant(s) reside(s) at 155 Federal Street Suite 700 Boston  
Street City of Town 02111  
in the County of Suffolk

FACTS

3. October 2004 I bought a brand New 2005 Toyota  
Camry. On June 4, 2005, I went to D.J. Car Wash Columbia  
Road, Dorchester, Ma to get my Camry Washed. I have been to  
DJ car wash on numerous occasion in the past years. The  
Vehicle was put in neutral. Once it came off the <sup>conveyor</sup> belt I  
entered in the vehicle and it did not move. I immediately <sup>I tap the gas pedal lightly</sup> put  
my foot on the brakes, the vehicle still did not move. Once I Shifted

continued →

Once I shifted the vehicle from neutral to drive with my foot still on the brakes it accelerated into traffic at a high rate of speed. It felt like I did not have any brakes. The vehicle hit a median strip. The air bag deployed and I was knocked unconscious, the vehicle then hit a school building. I was taken by Ambulance to Brigham & Women Hospital, Boston, Ma. I suffered a fractured leg, neck and torn rotator cuff. I was out of work from June 4, 2005 - December 8, 2005, see Enclosure

There was no knowledge of a Toyota Defect Recall until October 2009. Therefore the statute of limitation will run until October 2012. (3 years) see Enclosure

I believe my accident was a direct result of a Toyota defect recall. There was a problem with my car because my foot was on the brakes all the time and the car still accelerated at a high speed.

On Saturday January 29, 2011. I had my 2005 Toller from Essex Street Storage to a Boston Shop. The mechanic inspected my car and find a defect with the car. The Idle Control was stuck, which caused the car to accelerate with my foot on the brakes at a high speed. I sold the vehicle February 4, 2011.

I am disable due to an accident that occurred in my Toyota Camry on June 4, 2005. See Enclosure  
Enclosed please find 8 complaints of other consumer out of 583 with vehicle speed control problem. Similar to my accident.

I have other documents I can furnish upon request,

Vin 4T  
Reg case # 1710 20084

Sincerely,  
Frances Hines

P.S. you can reach me at 617 427-9988

the vehicle from neutral to drive with my <sup>Foot</sup> still on the brakes  
it accelerated into traffic at a high rate of speed. The brakes  
was nonresponsive. I was taken to Brigham and Women Hospital.

4. Answer this question only if you are seeking a restraining order against the defendant(s):

Have there been any other Court proceedings, criminal or civil, involving you or your family members and the defendant or defendant's family members?

Yes \_\_\_\_\_

No \_\_\_\_\_

If Yes, describe the Court proceeding(s) and its/their status. \_\_\_\_\_

WHEREFORE, plaintiff demands that:

Seeking damages for Pain and Suffering in the  
amount of \$1,235,462.00

SIGNED UNDER THE PENALTIES OF PERJURY.

DATE: 2/8/2011

Frances Hine

Signature of Plaintiff(s)

23 West Minister Avenue

Street Address

Roxbury, MA 02119

City/Town

617 427-9988

Telephone

CIVIL ACTION COVER SHEET

SUPERIOR COURT DEPARTMENT  
COUNTY:

DOCKET NO

11-11476F

PLAINTIFF(S)

Frances Hines

DEFENDANT(S)

Toyota Motor USA  
C/O CT Corporation

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE

ATTORNEY (IF KNOWN)

880F

RECEIVED

FEB 07 2011

Origin code and track designation  
SUPERIOR COURT - CIVIL  
MICHAEL JOSEPH DONOVAN  
CLERK / MAGISTRATE

Place an x in one box only:

- |  |  |
|--|--|
| <input type="checkbox"/> 1. F01 Original Complaint                                 | <input type="checkbox"/> 4. F04 District Court Appeal (before trial) (X)                                       |
| <input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231, s.104 (Before trial) (F) | <input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/ Order (Mass.R.Civ.P. 60) (X) |
| <input checked="" type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231, s.102C (X) | <input type="checkbox"/> 6. E10 Summary Process Appeal (X)   |

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.

TYPE OF ACTION (specify)

TRACK

IS THIS A JURY CASE?

B03

Motor Vehicle  
Accident

F

Yes/No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

## TORT CLAIMS

(Attach additional sheets as necessary)

## A. Documented medical expenses to date:

1. Total hospital expenses
2. Total Doctor expenses
3. Total chiropractic expenses
4. Total physical therapy expenses
5. Total other expenses (describe)

\$ 235,462.48

Subtotal

## B. Documented lost wages and compensation to date

## C. Documented property damages to date

## D. Reasonably anticipated future medical and hospital expenses — Knee replacement

\$ 30,000.

## E. Reasonably anticipated lost wages

## F. Other documented items of damages (describe)

## G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

Total \$

## CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

See Enclosure

TOTAL

\$

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

Frances Hines

Date: 2-8-2011

A.O.S.C. 3-2007

**CIVIL ACTION COVER SHEET INSTRUCTIONS**  
**SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE**

* CONTRACTS	* REAL PROPERTY	MISCELLANEOUS
A01 Services, Labor and Materials (F)	C01 Land Taking (eminent domain) (F)	E02 Appeal from Administrative Agency G.L. c. 30A (X)
A02 Goods Sold and Delivered (F)	C02 Zoning Appeal, G.L. c. 40A (F)	E03 Claims against Commonwealth or Municipality (X)
A03 Commercial Paper (F)	C03 Dispute concerning title (F)	E05 Confirmation of Arbitration Awards, G.L. c. 112, s. 125 (Mary Moe) (X)
A08 Sale or Lease of Real Estate (F)	C04 Foreclosure of mortgage (X)	E07 Appointment of Receiver (X)
A12 Construction Dispute (A)	C05 Condominium Lien & Charges (X)	E08 General Contractor bond, G.L. c. 149, ss. 29, 29a (A)
A99 Other (Specify) (F)	C99 Other (Specify) (F)	E11 Worker's Compensation (X)
E03 Claims against Commonwealth or Municipality (A)	E03 Claims against Commonwealth or Municipality (A)	E12 G.L. c. 123A, s. 12 (SDP Commitment) (X)
	<b>EQUITABLE REMEDIES</b>	E14 G.L. c. 123A, s. 9 (SDP Petition) (X)
	D01 Specific Performance of Contract (A)	E15 Abuse Petition, G.L. c. 209A (X)
	D02 Reach and Apply (F)	E16 Auto Surcharge Appeal (X)
	D06 Contribution or Indemnification (F)	E17 Civil Rights Act, G.L. c. 12, s. 11H (A)
	D07 Imposition of a Trust (A)	E18 Foreign Discovery Proceeding (X)
	D08 Minority Stockholder's Suit (A)	E19 Sex Offender Registry G.L. c. 178M, s. 6 (X)
	D10 Accounting (A)	E21 Protection from Harassment c. 258E (X)
	D12 Dissolution of Partnership (F)	E25 Plural Registry (Asbestos cases) (F)
	D13 Declaratory Judgment G.L. c. 231A (A)	E95 **Forfeiture G.L. c. 94C, s. 47 (F)
	D99 Other (Specify) (F)	E96 Prisoner Cases (F)
		E97 Prisoner Habeas Corpus (X)
		E99 Other (Specify) (X)
<b>* TORT</b>		
B03 Motor Vehicle Negligence (F)		
personal injury/property damage		
B04 Other Negligence- personal injury/property damage (F)		
B05 Products Liability (A)		
B06 Malpractice-Medical (A)		
B07 Malpractice-Other (Specify) (A)		
B08 Wrongful Death, G.L. c. 229, s. 2A (A)		
B15 Defamation (Libel-Slander) (A)		
B19 Asbestos (A)		
B20 Personal Injury- slip & fall (F)		
B21 Environmental (F)		
B22 Employment Discrimination (F)		
B99 Other (Specify) (F)		
E03 Claims against Commonwealth (A)		

\*Claims against the Commonwealth or a municipality are type E03, Average Track, cases.

\*\*Claims filed by the Commonwealth pursuant to G.L. c. 94C, s. 47 Forfeiture cases are type E95, Fast track.

TRANSFER YOUR SELECTION TO THE FACE SHEET.

EXAMPLE:

CODE NO.	TYPE OF ACTION (SPECIFY)	TRACK	IS THIS A JURY CASE?
B03	Motor Vehicle Negligence-Personal Injury	(F)	[X] Yes [ ]

**SUPERIOR COURT RULE 29**

**DUTY OF THE PLAINTIFF.** The plaintiff or his/her counsel shall set forth, on the face sheet (or attach additional sheets as necessary), a statement specifying in full and itemized detail the facts upon which the plaintiff then relies as constituting money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served on the defendant together with the complaint. If a statement of money damages, where appropriate is not filed, the Clerk-Magistrate shall transfer the action as provided in Rule 29(5)(C).

**DUTY OF THE DEFENDANT.** Should the defendant believe the statement of damages filed by the plaintiff in any respect inadequate, he or his counsel may file with the answer a statement specifying in reasonable detail the potential damages which may result should the plaintiff prevail. Such statement, if any, shall be served with the answer.

**A CIVIL ACTION COVER SHEET MUST BE FILED WITH EACH COMPLAINT.**

**FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY  
MAY RESULT IN DISMISSAL OF THIS ACTION.**